

## **REMARKS**

Claims 1-3, 5-9, 14 and 15 are pending and stand rejected under 35 U.S.C. 103(a) as being obvious over Kelm (US 5486215) in view of Spillman (US 5631102). New claims 17-20 are added. Claims 10 and 13-15 are withdrawn with traverse. Claims 13 through 15, depending directly or indirectly on claim 1, relate to a subspecies of claim 1. Applicant respectfully reserves the right to re-present the subject matter of claims 13 through 15 upon indication of allowance of claim 1.

In the previous response, the Applicant articulated distinctions between the pending claims and the cited references, thus indicating the references insufficient to meet the claims. The previous response is incorporated herein. The office action admits that Kelm does not include a spacer layer. Spillman is relied upon as allegedly disclosing a spacer layer by reason of having "a separator insert," which covers the leading edge 42 of the cathode and is used in addition to the main separator 28 enveloping the anode. The separator insert of Spillman is not joined to the separator 28 extending over the anode and appears to be a second separator extending over the cathode. Spillman fails to teach, suggest or imply "a spacer layer joined to a portion of the elongated separator" as recited in claim 1. For at least this reason, the rejection is improper and should be withdrawn.

Furthermore, a motivation for adding the separator insert of Spillman to Kelm's anode or cathode in the manner suggested by the Examiner is absent from the teachings of the references. Spillman requires the leading edge 42 of the cathode be covered and provides no teaching, express or implied, for covering a surface-mounted current collector. If the separator insert of Spillman is added to the Kelm cathode covering the leading edge as required by Spillman, the separator insert will not be aligned with and overlapping a surface-mounted anode current collector.

The Examiner takes the position that if the separator insert of Spillman is disposed inside the anode subassembly of Kelm, it would necessarily leave a

leading end of the anode subassembly exposed. However, the Examiner's suggestion of placing the separator insert inside the anode subassembly does not correspond to the teachings of Kelm and Spillman. Kelm's anode assembly 1 includes a current collector and a layer of alkali metal (col. 4, lines 23-24). Separator 25 forms a pocket around the anode assembly 1 (col. 4, lines 61-62). As such, it would not be logical to dispose a separator insert as taught by Spillman "inside" the anode assembly 1 (the alkali metal and the current collector) of Kelm. The Examiner appears to be interpreting the separator 25 as part of an "anode subassembly", within which a separator insert could be placed. However, this suggested modification to Kelm is not consistent with the teachings of Kelm or of Spillman. Kelm teaches the separator 25 is pressed into the surface of the alkali metal. Since separator 25 is pressed into the alkali metal of the anode assembly 1, it would not be obvious to one having skill in the art to dispose the separator insert of Spillman "inside" the separator 25 of Kelm. Furthermore, Spillman never teaches or suggests placing a separator insert inside another separator but rather wrapping it around a leading end of the cathode. Even if the separator of Kelm were not pressed into the alkali metal and a separator insert is disposed inside the separator as suggested by the Examiner, the separator insert of Spillman would still wrap around the leading end of the anode assembly 1 (the anode material and current collector) as required by Spillman. Applicant respectfully submits that the Examiner's conclusions do not correspond to the teachings of the prior art and appear to be an attempt at hindsight reconstruction of the instant claim limitations relying on the benefit of the teachings of the instant application.

A combination of Kelm and Spillman fails to result in the structural combination of claim 1. Applicant respectfully submits that the legal requirement for *prima facie* obviousness has not been met. The claimed structure is non-obvious to one having ordinary skill in the art without the benefit of the teachings of the instant application.

Applicant respectfully asserts that the present claims are in condition for allowance. Issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date

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